

AMENDED IN ASSEMBLY MARCH 28, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2244

Introduced by Assembly ~~Member Soto~~ *Members Price and Soto*

February 20, 2008

An act to add ~~Sections 1276.45 and 1276.46 to~~ and *repeal Sections 1276.45 and 1276.46 of the Health and Safety Code, relating to health facilities.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2244, as amended, ~~Soto~~ *Price*. University of California hospitals: staffing.

Existing law provides for the inspection, licensure, and regulation of health facilities by the State Department of Public Health, including, among other facilities, general acute care hospitals, acute psychiatric hospitals, and special hospitals. A violation of the provisions regulating health facilities is a crime. *Pursuant to the above authority, the department has adopted regulations that require hospitals to develop a written staffing plan that implement patient care requirements and staffing levels for registered nurses and other licensed and unlicensed personnel contained in those regulations.*

Existing law requires that certain building standards published by the Office of Statewide Health Planning and Development, and regulations adopted by the department, prescribe specified standards with respect to health facilities, including standards regarding staffing facilities with duly qualified licensed personnel.

This bill would, commencing January 1, 2010, ~~request the Regents of the University of California to require University of California general acute care, acute psychiatric, or special hospitals to adopt, and annually~~

~~review, a plan or procedure for determining the staffing of professional and technical classifications covered under the above provisions. The bill would provide that the plan or procedure shall not apply to the staffing of nursing personnel. By creating a new crime, the bill would impose a state-mandated local program.~~ *require the department to establish a procedure for collection and review of the written staffing plans and other related information, as specified, from University of California hospitals. This bill would require University of California hospitals to cooperate with the department in providing the above information.*

This bill would, commencing January 1, 2010, authorize the State Public Health Officer to levy, ~~if the Regents of the University of California elect to require compliance with the bill,~~ administrative penalties against a health facility for violation of the bill.

This bill would make its provisions inoperative on July 1, 2013, and would repeal it as of January 1, 2014.

By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 *SECTION 1. The Legislature finds and declares all of the*
- 2 *following:*
- 3 *(a) Public health interests require that hospitals provide safe*
- 4 *staffing levels of all professional and technical classifications at*
- 5 *health facilities licensed pursuant to subdivision (a), (b), or (f) of*
- 6 *Section 1250 of the Health and Safety Code.*
- 7 *(b) The link between safe nurse staffing levels and quality patient*
- 8 *care is well-established. Section 1443.5 of Title 16 and Sections*
- 9 *70053.2, 70215, and 70217 of Title 22 of the California Code of*
- 10 *Regulations address patient care and require hospitals to meet*
- 11 *nurse-to-patient ratios in specific hospital units that constitute*
- 12 *minimum nurse staffing requirements.*

1 (c) Section 70217 of Title 22 of the California Code of
2 Regulations requires hospitals to implement a patient classification
3 system for determining the nursing care needs of patients and to
4 develop and implement written staffing plans that specify patient
5 care requirements and staffing levels for registered nurses and
6 other licenced and unlicensed personnel. The staffing plan must
7 include staffing requirements as determined by the patient
8 classification system for each patient care unit, documented on a
9 day-to-day, shift-by-shift basis. The reliability of the patient
10 classification system for validating staffing requirements is
11 required to be reviewed at least annually. If the review reveals
12 that adjustments are necessary in the patient classification system
13 in order to assure accuracy in measuring patient care needs, the
14 adjustments must be implemented within 30 days of that
15 determination.

16 (d) Section 70217 of Title 22 of the California Code of
17 Regulations also requires hospitals to develop and document a
18 process by which all interested staff may provide input about the
19 patient classification system, the system's required revisions, and
20 the overall staffing plan.

21 (e) Many professional and technical staff, other than registered
22 nursing personnel, provide direct care, including respiratory
23 therapists, phlebotomists, radiology technicians, emergency room
24 and surgical technicians, lab technicians, vocational nurses,
25 nursing assistants, and pharmacy technicians.

26 (f) Short or inadequate staffing of professional and technical
27 staff undermines patient care in many ways. Inadequate staffing
28 may cause staff to have to simultaneously cover multiple patients
29 in different parts of the hospital, cause delays in getting patient
30 test results, lead to inaccurate or misleading films and tests, and
31 increase back and other injuries to employees that affect their
32 ability to continue to provide quality care.

33 (g) Inadequate staffing is a matter of statewide concern and so
34 Sections 1276.45 and 1276.46 are being added to the Health and
35 Safety Code with the following purposes in mind:

36 (1) To provide the department and the public with access to the
37 written staffing plans and actual staffing levels of the only general
38 purpose health care system owned and operated by a state entity.

39 (2) To provide a factual foundation upon which the Legislature
40 and the department may use to evaluate the need for minimum

1 *staffing requirements in professional and technical classifications,*
2 *other than nursing, and to evaluate the feasibility of developing*
3 *and implementing these minimum requirements.*

4 *(h) The University of California owns and operates five*
5 *academic medical centers. Collectively, the University of California*
6 *medical centers comprise one of the state's largest health care*
7 *systems and the only general purpose health care system owned*
8 *and operated by a state entity. With their tripartite mission of*
9 *teaching, public service, and research, the University of California*
10 *medical centers are a major resource for California. The fact that*
11 *three of the five University of California medical centers are*
12 *located in counties that have no county hospital demonstrates their*
13 *importance.*

14 *(i) Due to the unique role University of California medical*
15 *centers play as comprising the only general purpose health care*
16 *system owned and operated by a state entity, they are in a unique*
17 *position to provide the Legislature and the department with the*
18 *information required by Section 1276.45 of the Health and Safety*
19 *Code.*

20 *SEC. 2. Section 1276.45 is added to the Health and Safety*
21 *Code, to read:*

22 *1276.45. (a) The State Department of Public Health shall*
23 *establish a procedure for collection and review of the written*
24 *staffing plans developed pursuant to Section 70217 of Title 22 of*
25 *the California Code of Regulations by all University of California*
26 *health facilities licensed pursuant to subdivision (a), (b), or (f) of*
27 *Section 1250. The procedure developed by the department shall*
28 *include provision for collection and review of documentation*
29 *relating to the following:*

30 *(1) Review of the reliability of the patient classification system*
31 *as required by subdivision (e) of Section 70217 of Title 22 of the*
32 *California Code of Regulations.*

33 *(2) Adjustments in the patient classification system determined*
34 *to be necessary in light of the review conducted pursuant to*
35 *subdivision (e) of Section 70217 of Title 22 of the California Code*
36 *of Regulations and implementation of these adjustments.*

37 *(3) Staff input about the patient classification system, the*
38 *system's required revisions, and the overall staffing plan the*
39 *University of California health facilities receive pursuant to the*

1 *process developed and documented pursuant to subdivision (h) of*
2 *Section 70217 of Title 22 of the California Code of Regulations.*

3 *(b) If the department deems it necessary to reduce the volume*
4 *of information collected and reviewed pursuant to subdivision (a),*
5 *the department may identify specific time periods for which the*
6 *information is to be collected and review that information as a*
7 *representative sample.*

8 *(c) A University of California health facility licensed pursuant*
9 *to subdivision (a), (b), or (f) of Section 1250 from which the*
10 *department collects information pursuant to subdivision (a) shall*
11 *be required to cooperate with the department in providing the*
12 *information.*

13 ~~SECTION 1. Section 1276.45 is added to the Health and Safety~~
14 ~~Code, to read:~~

15 ~~1276.45. (a) The Regents of the University of California are~~
16 ~~requested to require University of California health facilities~~
17 ~~licensed pursuant to subdivision (a), (b), or (f) of Section 1250 to~~
18 ~~adopt a plan or procedure for determining the staffing of~~
19 ~~professional and technical classifications covered under Section~~
20 ~~1276. The plan or procedure shall not apply to the staffing of~~
21 ~~nursing personnel.~~

22 ~~(b) The plan or procedure shall be used by the University of~~
23 ~~California health facility to determine the amount of competent~~
24 ~~personnel with the appropriate combination of skills necessary to~~
25 ~~meet the needs of its patients. Upon adopting the requested plan~~
26 ~~or procedure, the University of California health facility shall~~
27 ~~annually review the plan or procedure to determine whether it~~
28 ~~should be adjusted in order to reduce bad patient outcomes and~~
29 ~~workplace injuries. The University of California health facility~~
30 ~~shall document any changes made to the plan or procedure.~~

31 ~~(c) The plan or procedure shall be available for review upon~~
32 ~~request. The University of California health facility shall provide~~
33 ~~any interested person with a copy of the plan or procedure either~~
34 ~~electronically or in printed form. The University of California~~
35 ~~health facility may require payment of reasonable reproduction~~
36 ~~costs if provided in print.~~

37 ~~(d) Failure to maintain, to review annually, or to comply with~~
38 ~~a plan or procedure as required by this section shall be deemed by~~
39 ~~the department to constitute staffing that has the potential for harm~~
40 ~~to patients.~~

1 ~~(e) During surveys for compliance with state or federal statutes~~
2 ~~or regulations, the department shall review the plan or procedure,~~
3 ~~the University of California health facility's compliance with the~~
4 ~~plan, and the annual updates to the plan to determine compliance~~
5 ~~with this section.~~

6 ~~(f)~~

7 *(d) This section shall become operative on January 1, 2010.*

8 *(e) This section shall become inoperative on July 1, 2013, and,*
9 *as of January 1, 2014, is repealed, unless a later enacted statute,*
10 *that becomes operative on or before January 1, 2014, deletes or*
11 *extends the dates on which it becomes inoperative and is repealed.*

12 ~~SEC. 2.~~

13 *SEC. 3.* Section 1276.46 is added to the Health and Safety
14 Code, to read:

15 ~~1276.46. (a) If the Regents of the University of California~~
16 ~~elect to require University of California health facilities licensed~~
17 ~~pursuant to subdivisions (a), (b), or (f) of Section 1250 comply~~
18 ~~with Section 1276.45, the~~

19 *1276.46. (a) The* director, after appropriate notice and
20 opportunity for hearing, may levy administrative penalties for a
21 violation of Section 1276.45. When assessing administrative
22 penalties against a University of California health facility pursuant
23 to this section, the director shall determine the appropriate amount
24 of the penalty for each violation. In making that determination,
25 the director may consider any of the following factors:

26 (1) The nature, scope, and gravity of the violation.

27 (2) The University of California health facility's history of
28 violations.

29 (3) The demonstrated willfulness of the violation.

30 (4) The behavior of the facility with respect to the violation,
31 including whether the facility mitigated any damage or injury from
32 the violation.

33 (b) A University of California health facility may appeal an
34 administrative penalty levied pursuant to this section within 30
35 days, consistent with Section 100171. The University of California
36 health facility may also seek to adjudicate the validity of the
37 violation or the penalty.

38 *(c) This section shall become operative on January 1, 2010.*

39 *(d) This section shall become inoperative on July 1, 2013, and,*
40 *as of January 1, 2014, is repealed, unless a later enacted statute,*

1 *that becomes operative on or before January 1, 2014, deletes or*
2 *extends the dates on which it becomes inoperative and is repealed.*

3 ~~SEC. 3.~~

4 SEC. 4. No reimbursement is required by this act pursuant to
5 Section 6 of Article XIII B of the California Constitution because
6 the only costs that may be incurred by a local agency or school
7 district will be incurred because this act creates a new crime or
8 infraction, eliminates a crime or infraction, or changes the penalty
9 for a crime or infraction, within the meaning of Section 17556 of
10 the Government Code, or changes the definition of a crime within
11 the meaning of Section 6 of Article XIII B of the California
12 Constitution.